

## Agency for International Development

## § 218.39

the agency's investigation, conciliation, and enforcement process.

### § 218.36 Compliance procedure.

(a) An agency may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from the agency under the program or activity involved where the recipient has violated the Act and these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from the agency.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations by the Act and these regulations.

(ii) Use of any requirement of or referral to any Federal, state, or local government agency which will have the effect of correcting a violation of the Act or these regulations.

(b) The agency will limit any termination under paragraph (a)(1) of this section to the particular recipient and particular program or activity the agency finds in violation of these regulations. The agency will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from the agency.

(c) The agency will take no action under paragraph (a) of this section until:

(1) The agency head has advised the recipient of its failure to comply with these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have lapsed after the agency head has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the program or activity involved. The agency head shall file a report whenever any action is taken under paragraph (a) of this section.

(d) The agency head also may defer granting new Federal financial assistance from the agency to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from the agency includes all assistance for which the agency requires an application or approval, including renewal of continuation of existing activities, or authorization of the new activities, during the deferral period. New Federal financial assistance from the agency does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under paragraph (a)(1) of this section.

(2) The agency will not begin a deferral until the recipient has received a notice of opportunity for a hearing under paragraph (a)(1) of this section. The agency will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the agency head. The agency will not continue a deferral for more than 30 days after the close of a hearing unless the hearing results in a finding against the recipient.

### § 218.37 Hearings, decisions, post-termination proceedings.

Certain procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to enforcement of this part. They are 22 CFR part 209.

### § 218.38 Remedial action by recipient.

Where the agency head finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the agency head may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, the agency head may require both recipients to take remedial action.

### § 218.39 Alternate funds disbursal procedure.

(a) When an agency withholds funds from a recipient under these regulations, the agency head may disburse the withheld funds directly to an alternate recipient, any public or non-profit